

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Original Claims 1-12 are presently active in this case,

In the outstanding Office Action, Claims 1-3 and 5 were rejected under 35 U.S.C. §102(b) as anticipated by Kim (U.S. Patent No. 5,742,397); Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Kim in view of Kawashima et al. (U.S. Patent No. 5,124,562, hereinafter called “Kawashima”); Claim 6 was rejected under 35 U.S.C. §103(a) as being unpatentable over Kim in view of Yamada et al. (U.S. Patent No. 5,323,016, hereinafter called “Yamada”); Claims 7 and 11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Toida et al. (U.S. Patent No. 6,522,911, hereinafter called “Toida”) in view of Kim; Claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over Toida, Kim in view of Makosch et al. (U.S. Patent No. 4,298,283, hereinafter called “Makosch”); Claim 9 was rejected under 35 U.S.C. §103(a) as being unpatentable over Toida, Kim in view of Makosch; Claim 10 was rejected under 35 U.S.C. §103(a) as being unpatentable over Toida, Kim in view of Kawashima; and Claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over Toida, Kim in view of Yamada.

Applicants respectfully traverse the outstanding grounds for rejection, because in Applicants’ view the outstanding grounds for rejection are based on a fundamental misunderstanding of the claimed invention. In the following discussion, Applicants provide a brief recapitulation of aspects of the present invention and then focuses on aspects which are believed to have been misunderstood and which are not believed to be taught or obviated by the cited prior art.

Applicants’ invention aims to provide a specimen surface level adjusting method capable of expanding the region where a specimen with a pellicle can be inspected, without

impairing the inspection sensitivity. To that end, Applicants' invention prevents uncontrollable movement of a specimen caused by loss of reflected light. In particular, the specimen surface is fixed to a reference level, if the intensity of the reflected light is less than a specific threshold value. Namely, the movement of the specimen by the moving mechanism is stopped.<sup>1</sup>

The above noted aspects of Applicants' invention are captured in Claim 1 by the recitation of the following steps:

detecting the intensity of the reflected light; and  
fixing the specimen surface to a reference level, if the intensity is less than a specific threshold value.

Thus, Applicants wish to make clear that while the claimed invention indeed recites calculating the level of the specimen surface, the "detecting" and "fixing" steps are believed to be clearly patentably distinguishing. As per the claimed invention, to stop the movement of the specimen, it is necessary just to detect the loss of the intensity of the reflected light.

Kim discloses a method of detecting the height (position) and slope of a specimen (target 300). This is not particularly relevant as the present invention is not concerned with the position or slope of a target, but instead the intensity of detected reflected light. To the extent that the outstanding grounds for rejection are based on the misunderstanding that, like Kim, the claimed invention is a method of detecting the height of a specimen, the outstanding grounds for rejection are traversed, since Kim fails to disclose or obviate the "detecting" and "fixing" steps recited in Claim 1. In view of such deficiencies, withdrawal of the outstanding grounds for rejection of Claim 1, as well as Claims 2-6 dependent therefrom, is believed to be in order and is respectfully requested.

---

<sup>1</sup> See the BRIEF SUMMARY OF THE INVENTION at pages 4-5 of the specification.

As Claim 7 likewise recites the above discussed "detecting" and "fixing" steps, the rejection of Claim 7 and its dependent claims 8-12 as based at least in part on Kim is also believed to have been overcome. Furthermore, in the rejection of Claim 7 seems to be further based on the misunderstanding of the meaning of the recorded position information. The recorded position information is information about a projected position where the reflected light is below a specific threshold, for example, is lost, which is worked out in advance so as to be predetermined.

The position where the reflected light is below a specific threshold, for example, is lost, is obtained by scanning a specimen in the x and y directions while monitoring the intensity of reflected light. The outstanding grounds for rejection seem to confuse the "standard image" of Kim with the "recorded position information." By way of the present clarification, it is believed clear that the Claim 7 and Claims 8-12 dependent therefrom likewise patentably distinguish over Kim and the other cited references absent misunderstanding of the claim terminology.

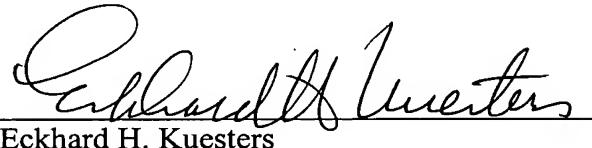
Consequently, in view of the present amendment, and in light of the above

Application No. 10/666,241  
Reply to Office Action of March 28, 2007

clarification, the pending Claims 1-12 are believed to be in condition for formal allowance, and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Eckhard H. Kuesters  
Attorney of Record  
Registration No. 28,870

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 08/07)

EHK:fm

I:\ATTY\EHK\24's\243056US\243056us-REQUESTFORRECONSID-8.28.07.DOC